

## MEETING RECORD

**NAME OF GROUP:** PLANNING COMMISSION

**DATE, TIME AND PLACE OF MEETING:** Wednesday, February 16, 2005, 1:00 p.m., City Council Chambers, First Floor, County-City Building, 555 S. 10th Street, Lincoln, Nebraska

**MEMBERS IN ATTENDANCE:** Jon Carlson, Gene Carroll, Gerry Krieser, Dan Marvin, Melinda Pearson, Lynn Sunderman and Tommy Taylor (Roger Larson and Mary Bills-Strand absent); Marvin Krout, Ray Hill, Mike DeKalb, Steve Henrichsen, Brian Will, Becky Horner, Tom Cajka, Greg Czaplewski, Jean Walker and Teresa McKinstry of the Planning Department; media and other interested citizens.

**STATED PURPOSE OF MEETING:** Regular Planning Commission Meeting

Vice-Chair Jon Carlson called the meeting to order and requested a motion approving the minutes for the regular meeting held February 2, 2005. Motion for approval made by Carroll, seconded by Krieser and carried 7-0: Carlson, Carroll, Krieser, Marvin, Pearson, Sunderman and Taylor voting 'yes'; Larson and Bills-Strand absent.

### **CONSENT AGENDA**

### **PUBLIC HEARING & ADMINISTRATIVE ACTION**

### **BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Carlson, Carroll, Krieser, Marvin, Pearson, Sunderman and Taylor; Larson and Bills-Strand absent.

The Consent Agenda consisted of the following items: **SPECIAL PERMIT NO. 1816A and COUNTY FINAL PLAT NO. 05002, MUSTANG RIDGE ADDITION.**

Taylor moved to approve the Consent Agenda, seconded by Carroll and carried 7-0: Carlson, Carroll, Krieser, Marvin, Pearson, Sunderman and Taylor voting 'yes'; Larson and Bills-Strand absent.

Note: This is final action on Special Permit No. 1816A, unless appealed to the City Council by filing a letter of appeal with the City Clerk within 14 days of the action by the Planning Commission.

**CHANGE OF ZONE NO. 05004**  
**PINE GARDEN PLANNED UNIT DEVELOPMENT**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 84<sup>TH</sup> STREET AND OLD CHENEY ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None

Proponents

1. **Brian Carstens** appeared on behalf of **Realty Trust Group** for a Planned Unit Development (PUD) on northwest corner of 84<sup>th</sup> and Old Cheney Road. Lincoln Christian School is located to the south; there is O-3 zoning to the east (which is not yet developed) and HiMark. Catty-corner is the B-2 owned by Hampton. This PUD proposes a total of 28 units of townhomes – two-story on the west side abutting the existing neighbors and the live-work units will be on the east, there being a private roadway in the middle creating a court yard with on-street parking and sidewalks. The south end is 22,000 sq. ft. of planned commercial. In working with staff, the applicant was required to eliminate some uses because of traffic concerns. Realty Trust is paying for revisions to the intersection design and the additional concrete.

The applicant held one neighborhood meeting with very few people in attendance and there were no concerns.

The applicant had no objections to the conditions of approval, and clarified that waiver #10 in the staff report is no longer required (driveway approach grade on east side of roundabout).

Carroll inquired about the trees on the north boundary. Carstens indicated that they will be revising the grading plan to save those trees.

There was no testimony in opposition.

Greg Czaplewski of Planning staff corrected a typo in Condition #2, “....22 foot paving width in South 83<sup>rd</sup> Court ~~north~~ south of the roundabout;....”.

Carlson inquired whether the withdrawal of waiver #10 changes the conditions of approval. Czaplewski indicated that the applicant will make revisions to the drawings so that the waiver is no longer needed and this revision will be made before it moves on to the City Council.

**ADMINISTRATIVE ACTION BY PLANNING COMMISSION:**

February 16, 2005

Marvin moved approval, with conditions as modified by staff, seconded by Taylor and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 05003.**

**TEXT AMENDMENT TO TITLE 27.**

**and**

**MISCELLANEOUS NO. 05001,**

**TEXT AMENDMENT TO THE CITY OF LINCOLN**

**DESIGN STANDARDS**

**REGARDING OUTDOOR LIGHTING STANDARDS.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Approval.

Ex Parte Communications: Marvin disclosed that he talked to LES and found that it was not too problematic to meet this standard. Sunderman disclosed that he had visited with Dan Marvin.

Mike DeKalb of Planning staff submitted two additional letters in support.

**Proponents**

Mike DeKalb presented the proposal which was originally initiated by the Near South Neighborhood Association. There is an issue of light trespass, especially with newer construction next to older neighborhoods and older residential areas. The Planning staff did discuss this with Building & Safety, Parks, LES and others in coming forward with this approach.

This proposal is an amendment to the zoning code under the additional height and area section, stating that outdoor lighting shall be designed, installed and maintained in accordance with lighting standards adopted by the city.

The proposed amendment to the Design Standards creates a new chapter, entitled “Outdoor Lighting”, which requires that light trespass from a non-residential use abutting, or across the alley from, a residential district shall not exceed 0.5 foot candles at the residential property line. This matches the standard today for parking lot and recreational lighting. A reference to existing portions of the code that talk about lighting is also included.

DeKalb explained that the staff believes that a comprehensive review of the lighting standards is needed and will be pursuing with that effort in the future and will come back with further recommendations.

Carlson clarified that the proposal provides that the safety or security lighting of a commercial use that abuts a residential use is required to shine down on the commercial property. DeKalb agreed, citing the example of the canopies over pump stations where they are required to have drop down lights; or the lights at drive-up bank facilities where the lighting is flush with the ceiling of that canopy and shines down for the security purposes.

Pearson asked for an example of what 0.5 foot candle might look like. DeKalb suspects that most of the lighting today on commercial and residential exceeds the standards; however, he referred to the Densmore Park ballfields, which do meet the standard. Another park north of town similarly meets the circumstance. The simple version of foot candle is usually described as light emitted from one candle at one foot away would be 1.0 foot candle. Pearson wanted to know how citizens will know if it is exceeding the standard. DeKalb stated that there must be a glare on their property line. A light meter could be used to measure it. Sunderman pointed out that DuTeau Chevrolet has a requirement of 0.5 foot candle 10 feet within the property line, which would be a good example.

### Support

#### **1. Erik Hubl, Chair of the Board of Directors of Hyde Observatory, testified in support.**

This continues a process that was began in 1994 when there was a light pollution committee appointed to examine standards for parking lots and recreational facilities. At each step, Hyde Observatory has offered assistance. The approach of Hyde Observatory has always been one of non-aggression, but they would like to serve as an educational resource. At each public opening, Hyde Observatory educates visitors on the seriousness of light pollution and provides easy solutions. It is remarkable that once you learn to recognize bad lighting, you can actually see it everywhere. This proposal provides an opportunity to address excessive glare that is produced at certain businesses and convenience facilities. Being too bright can actually pose hazards, e.g. he has witnessed drivers pulling away from these locations with their headlights off. Another hazard is a sheer contrast between the glare and the shadows that are created. Glare from car lights and the brightly lit sides of the street pose serious problems for individuals with macular degeneration. Excessive light is a tremendous amount of energy waste. We do need lighting for safety and security but it can be done without blasting the neighborhood. Properly shielded uniform lighting can be attractive. Hubl

suggested that an example of a job well done is at 70<sup>th</sup> & Pioneers developed by Don Linscott, particularly the Walgreens building. It is properly lit with good illumination and does not detract the dark sky. Hyde Observatory and Prairie Astronomy Club of Lincoln support this change.

**2. Dr. Martin Gaskell**, astronomer at UNL, testified in support. He testified to the effect of bad lighting on astronomy teaching; the effect on the quality of life in Lincoln; and proposed changes to the wording. Introductory to Astronomy is the most popular science elective at UNL. Over the last 4-5 years, the brightness of light above the campus has doubled. It is hard for the students to go outside and actually see the sky. Brightness of the sky is a quality of life issue. He believes people have a right to have a dark sky.

Dr. Gaskell suggested that there be amendments to the proposal: 1) require full-cut-off fixtures; 2) make it clear that “security lights” are included; 3) change “nonresidential” to “residential and nonresidential”; 4) include a timescale for retro-fitting existing facilities to the new standards - perhaps two or three years; 5) restrict flood lighting of exteriors; 6) in any “neighborhood improvement project”, additional lighting should also be fully-shielded and not exceed luminance standards.

**3. Jack Dunn**, coordinator of the **Planetarium at UNL**, testified in support. Citizens do not like to have glaring lights in their faces. His son commented that Lincoln is starting to look like Dallas as far as what the lighting has done in the community. He showed photographs of light trespass taken by UNL students. Glare is annoying and by doing various things to help alleviate the glare, the quality of life is increased. There are a number of cities that have passed ordinances to help encourage people to put in proper lighting.

**4. Russell Miller**, 341 S. 52<sup>nd</sup>, spoke on behalf of Lincoln Neighborhood Alliance in support of this ordinance.

There was no testimony in opposition.

#### Staff questions

Pearson inquired whether the amendments proposed by Dr. Gaskell can be integrated into this ordinance. DeKalb concurred that they are all excellent suggestions, but this is being proposed as a two-step process and the staff would prefer to do the performance standard solution now and look at the amendments proposed by Dr. Gaskell in the overall comprehensive review.

Pearson wondered about pursuing the amendment to expand “nonresidential” to include “residential” as well. DeKalb stated that staff would prefer this not be done. The light trespass from apartment complexes and residential parking lots is an issue but the solution of commercial to residential is very easy to enforce. It would be preferable to have time to properly review and research it in the overall comprehensive review.

Marvin asked DeKalb to explain the follow-up process. DeKalb stated that the intention is to appoint a task force to review the issues and come forward with recommendations. The staff is now in the process of looking for interested people and those with expertise to develop a list of people that could sit on that committee. The intent is to have the task force work through the summer with a report by the end of the summer or early fall. There will certainly be recommendations for further amendments and standards to be developed. If anyone is interested in serving on the committee, they should contact the Planning Department by e-mail, letter, or fax.

**CHANGE OF ZONE NO. 05003**

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Taylor moved approval, seconded by Krieser.

Taylor expressed appreciation for the efforts being made to address light pollution.

Pearson commented that the proposal states that “all outdoor lighting” shall be designed, installed and maintained in accordance with all applicable lighting standards, and she supports this.

Motion for approval carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting ‘yes’; Bills-Strand and Larson absent. This is a recommendation to the City Council.

**MISCELLANEOUS NO. 05001**

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Pearson moved approval, seconded by Taylor.

Pearson moved to amend section 3.100, “Light trespass from a residential and nonresidential use abutting, ....”, seconded by Carlson.

Pearson commented that the nature of the whole section is “all” outdoor lighting. There is no timeframe required; there is no requirement to retrofit anything that is existing; there is going to be no undue burden on anyone except those that come in with new projects. If a neighbor comes in and puts a wallpack on the side of their garage and it shines in the neighbor’s dining room window, nothing could be done about it. Or, if an apartment complex comes in and puts in large outdoor lighting fixtures and they shine in a neighbor’s bedroom, the neighbor wouldn’t be able to do anything. She thinks the intent is “all” outdoor lighting, and she does not believe it an undue burden to extend it to residential use.

Taylor moved to amend the amendment with “commercial residential” as opposed to “residential”. Motion failed for lack of a second.

Pearson believes that it is the residential property line where the trespass is occurring. If you are a commercial property owner or apartment complex owner you won't have the same requirements. Taylor thinks the problem would be more with commercial residential than non-commercial residential. Pearson does not believe there is a definition for "commercial residential", i.e. rental homes, more than two-family, etc. Taylor stated that he is referring to commercial type apartment complexes.

Carroll suggested that a complete full review of the lighting standards will be done this summer with more in-depth study, so he does not believe adding residential now is appropriate. It needs to be studied to see what the effect might be. He wants to move forward with the recommendation today until there is more study.

Marvin will not support the amendment because it would be a big change that would not have been properly advertised. It would be a significant change and he does not believe it is appropriate to do it at this point.

Sunderman thinks it is a very complicated issue and it should be kept simple until there is further study.

Pearson responded, suggesting that if it is to be simple, it should cover all uses. By saying nonresidential you cut off the discussion. If it provided, "light trespass from any uses abutting", then you could at least study and determine whether it is an issue for residential. The way it is written now is very confining in comparison to the actual chapter that refers to "all outdoor lighting".

Carlson believes this is an attempt to get the most egregious example taken care of first, and he agrees.

Motion to amend failed 1-6: Pearson voting 'yes'; Marvin, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'no'; Bills-Strand and Larson absent.

Main motion to approve the staff recommendation carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent. This is a recommendation to the City Council.

**USE PERMIT NO. 145A**  
**TO MODIFY THE O-3 OFFICE PARK DISTRICT**  
**SIGN REQUIREMENTS**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S. 84<sup>TH</sup> STREET AND PINE LAKE ROAD.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Conditional Approval.

Ex Parte Communications: Taylor disclosed that he made an attempt to contact the staff planner, but he was not able to reach him.

Proponents

**1. Jason Thiellen of Engineering Design Consultants** appeared on behalf of Pine Lake Development LLC, which is proposing to amend the O-3 Office Park sign ordinance to allow the ability for clients to buy lots within that development with the ability to have the sign either at the door of the entrance or at the vehicular entrance to the building to provide a little more flexibility. There is no additional signage being requested.

There was no testimony in opposition.

Staff questions

Taylor asked staff to further explain the application. Brian Will explained that wall signs are allowed on all of the buildings. Additionally, there are center identification signs at three locations and there is an internal directional sign allowed. The conditions of approval state that the internal signs could be located by the drive. It does not impact any other properties.

The applicant agreed with the conditions.

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Taylor moved to approve the staff recommendation of conditional approval, seconded by Carroll and carried 6-1: Marvin, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Pearson voting 'no'; Bills-Strand and Larson absent. This is final action unless appealed to the City Council.



**STREET & ALLEY VACATION NO. 04013**  
**TO VACATE THE EAST-WEST ALLEY BOUNDED**  
**BY 13<sup>TH</sup>, 14<sup>TH</sup>, M AND N STREETS.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Two-week deferral.

Ex Parte Communications: None.

The Clerk announced that the staff and applicant have requested a two-week deferral. Carroll moved to defer two weeks, with continued public hearing and action scheduled for Wednesday, March 2, 2005, seconded by Marvin and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent.

There was no public testimony.

**WAIVER NO. 05001**  
**TO WAIVE SIDEWALKS AND**  
**STREET TREES ON PROPERTY**  
**GENERALLY LOCATED AT**  
**PROGRESSIVE AVENUE & SUPERIOR STREET.**  
**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Approval of the waiver of sidewalks along Progressive Avenue and denial of the waiver of street trees on 48<sup>th</sup> Street.

Ex Parte Communications: None.

Proponents

**1. Michael Bott**, 6800 Van Dorn Street, presented the application on behalf of the applicant, Licor, Inc., and submitted a letter from a neighbor in support. This waiver request was initiated due to a subdivision that was done back in 1997, which required installation of 100' of sidewalk, storm sewer work and planting of trees on Superior and N. 48<sup>th</sup> Streets. The staff has recommended approval of the waiver of the sidewalk along Progressive Avenue because it is noncontiguous with any other sidewalk in an industrial area and serves no purpose.

Staff is, however, recommending denial of the waiver of about 10 maple trees along N. 48<sup>th</sup> Street. The reason the applicant is requesting the waiver of street trees on 48<sup>th</sup> Street is because the land has not been developed and they do not believe the street trees should be planted until future development of the property where the trees will be located. 48<sup>th</sup> Street will someday have a curb added and further improvements. This area is a long way from any irrigation system. The applicant is requesting not to plant these maple trees (at a cost of \$250 to \$300 each) until the balance of the property is developed. If the trees are planted now, he believes there will be a very small chance that the trees will be maintained. Any improvement to 48<sup>th</sup> Street will destroy the trees.

Bott also pointed out that across the street is the bottling plant, Green's Furnace and then some public land, none of which have installed street trees. It would require a great deal of expense to keep the street trees on 48<sup>th</sup> Street watered. The applicant agrees to plant the trees that are required along Superior Street because the area is finalized and the sidewalks are in.

Carlson believes the applicant agreed to have these trees planted by 1997. Bott acknowledged that this waiver request was prompted by a letter from the Law Department. Apparently, these improvements were requirements of the process when the parcel was purchased by Licor. Licor resubdivided three to four lots into one lot, but these improvements slipped through the cracks and no one really knew about these requirements. Bott reiterated that the trees will be planted along Superior Street as soon as can properly be done.

There was no testimony in opposition.

#### Staff questions

Marvin asked staff to indicate the long range plan for 48<sup>th</sup> Street near Superior Street in terms of improvements. Dennis Bartels of Public Works believes that the Comprehensive Plan shows the widening of N. 48<sup>th</sup> Street from Superior to about Fremont in the long range plan. At this point in time, however, no funding has been identified and it is beyond the program as far as timing. Bartels also advised that the street trees would be installed outside of the public right-of-way. Marvin sought confirmation that the trees would not be disturbed if 48<sup>th</sup> Street is improved 10 years from now. Bartels stated that if they grade outside the right-of-way they might get into the trees but he could not say for certain. The city would be required to replace them if they were disturbed.

Tom Cajka of Planning staff referred to the final plat where the developer dedicated 10' of additional right-of-way along 48<sup>th</sup> Street which gives 50' of right-of-way from the centerline of 48<sup>th</sup> Street, which would accommodate the street improvement. The Design Standards do require that street trees are to be planted on private property along major streets.

Carroll referred to Analysis #7 in the staff report and believes the location of the trees would be fairly easy.

Response by the Applicant

Bott stated that the applicant will be able to locate the curbcuts that will be allowed in the future, and as far as the widening of the street, if the grade changes, it might get into the trees. Quite often there are construction easements along the development of arterials. If the trees are located well into the property and are kept away from the right-of-way where the potential construction easement is located, they would probably not be damaged by the construction, but it is a long time in the future before there will be facilities located there to maintain the trees. Licor was hoping to put off the installation of those trees until that area develops.

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Marvin moved to approve the staff recommendation which approves the waiver of sidewalk and denies the waiver of street trees, seconded by Carroll and 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent. This is a recommendation to the City Council.

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**ANNEXATION NO. 05001**

**and**

**CHANGE OF ZONE NO. 05002,**

**THE LINKS AT LINCOLN PLANNED UNIT DEVELOPMENT**

**ON PROPERTY GENERALLY LOCATED AT**

**HIGHWAY 34 AND FLETCHER AVENUE.**

**PUBLIC HEARING BEFORE PLANNING COMMISSION:**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Approval of the annexation, subject to an annexation agreement; and conditional approval of the PUD.

ExParte Communications: Taylor disclosed that he called Becky Horner, the project planner, about this project.

Becky Horner of Planning staff submitted three letters in opposition with general concerns about traffic, water, density and the commercial uses.

Horner also submitted amendments to the conditions of approval. In response to a concern raised by the neighbors with private wells, the staff is adding Condition #4.4:

- 4.4 Provide adequate well log data and other information to the Lower Platte South NRD to make a determination that the proposed irrigation well would not likely impact other higher priority water wells in the area.

This would be a condition required prior to building permits being issued.

Horner also amended the following conditions of approval:

- 1.2.11      Revise the plan to indicate the total number of approved dwelling units to 696, if the commercial use is deleted.
2.            This approval permits ~~696~~ 612 dwelling units and 60,000 square foot of commercial floor area, or 696 dwelling units, if the commercial use is deleted.

### Proponents

**1. Lynn Farrell, The Lindsey Company,** testified to the site selection and what attracted the company to Lincoln. They have been following Lincoln's progress for 4-5 years; have done demographic studies and like what they see. The only reason they have not come to Lincoln earlier is that the company has been limited to a 300-mile radius of Fayetteville, Arkansas, and recently expanded to a 400-mile radius and Lincoln was the first choice in the expanded area. Farrell pointed out that the proposed location is a premier location because it is only five minutes by divided highway to downtown and UNL.

**2. Kim Fugitt** reviewed the site plan and features of the proposed PUD. He showed photographs of a similar Lindsey Company development in Springdale, Arkansas, The Lindsey Company has developed 28 golf courses in seven states. The proposed site plan for Lincoln includes 612 dwelling units composed of 51 buildings, on approximately 100 acres, so the overall density proposed with a small portion of commercial is 6.12 units per acre. Over half of the site will be golf course, which would relate to well over half the site being open space with a 9-hole, par 36, regulation course. There will be three different pods of apartment buildings with the golf course running around the perimeter of the site creating a buffer between the units and the neighbors and the units and the highway. By being grouped into three pods, there is more of a community feel. It also allows the maximum number of apartment units that can look onto the golf course. Fugitt showed an example of the apartment building "backed and stacked" design with a chase wall down the middle of the building so that there are two fronts. The buildings will be 70% brick on the exterior. Within the clubhouse will be the pro shop, meeting rooms for tenants and guests, whirlpool, saunas, fitness center, tanning facilities, billiard rooms and a business center for the tenants. There is a lot of landscaping, a swimming pool, playgrounds, and picnic tables. There will be on-site management and security officers.

Marvin inquired about any effect on the school system. Fugitt stated that they have run the demographics on like properties as to the age groups of the tenants. The studies have shown 1.4 children per apartment unit. The average number of children in all apartments is .22/unit, with 44 % being under school age. They have gathered information from Home Builders and the American Housing Survey, indicating that multi-family housing has a lower impact than single family housing as far as the number of children. They estimate .12 children per unit at school age.

Carlson inquired about the relationship between the proposed commercial and the residential as far as bringing the residents down to the commercial area. Fugitt advised that the boulevard entrance snakes throughout the entire site and it goes directly into the clubhouse facility. The first drive would be a through street that would connect to the commercial property. There would be access off of Fletcher as well. They have not proposed any pedestrian paths other than the sidewalks located on the boulevard itself.

Carlson noted that there has been a lot of conversation in Lincoln and pedestrian movement and the Comprehensive Plan emphasizes pedestrian motion. Fugitt stated that they would have pedestrian paths along the vehicular paths, but they do not have planned paths through the golf course because it creates too much liability.

**3. Jim Lindsey, of The Lindsey Company**, believes that Lincoln is a great city and he would like to be a part of it and be partners with the Chamber of Commerce. The Lindsey Company has developed and owns 23,000 apartments in 94 different locations and they have never sold one. Their basic principle is to buy the land, design the buildings, build the buildings, maintain the buildings, and manage the buildings to keep for a lifetime. However, the buildings are designed to meet all fire wall requirements and all specific requirements of being an individual condominium as their exit strategy some day. Every foot of the grounds will be sodded; the landscape will be very important and will be maintained; they will plant several thousands of trees on this site; there will be a fence or hedge on the entire boundary; they check criminal and credit histories on all tenants. There is a courtesy officer on duty and the manager and the assistant managers live in the development. The Lindsey Company is here to invest a big piece of money in a great city with full intentions of getting a very good return. In all of their demographic studies, Lincoln has been in the analysis for five years and has rated in the top five.

The people who live in the development are able to use the golf course for free.

Carroll inquired about the development time line. Lindsey stated that they can build a unit a day, so the entire project could be built in 1.5 years.

### Opposition

**1. Jim Christo**, 6945 N. 7<sup>th</sup> Street, 5/8 mile north of 7<sup>th</sup> & Fletcher intersection, testified in opposition. He is concerned about the impact on the private wells in the area. He would prefer that the word "likely" in the staff proposed Condition #4.4 be deleted. The groundwater in that

area is very unique and there is very little of it. The well of one of the neighbors has to recharge between loads of laundry. His well is somewhat better, but Christo recalled that there was a University Alumni golf course project being planned just north of Fallbrook, which did not materialize. He believes one of the issues was available water.

Christo also cited traffic as a concern. The intersection of 1<sup>st</sup> & Fletcher has been redone twice in four years. As you are going west on Fletcher and approach 1<sup>st</sup> Street, you cannot turn left. You have to go right/north only. At the present time, SUV's proceed over the raised medians. Cars go up 1<sup>st</sup> Street and do a u-turn, which is just over the crest of the hill which is not a safe situation. There is going to be a Hartland Gardens residential development from 7<sup>th</sup> to 14<sup>th</sup>, Fletcher to Humphrey, in the near future. This will create additional traffic on Fletcher Avenue. The CIP shows the widening of 14<sup>th</sup> Street beginning in 2005-06, so he assumes 14<sup>th</sup> Street will be under some type of duress for 2-3 years. Access and coordination of the street improvements would be greatly appreciated.

**2. Chandy Clanton**, 320 Fletcher Avenue, testified in opposition. The proposed development does not fall within the Comprehensive Plan, which calls for urban residential and low density residential. The proposal appears to be all high density. Although she understands this area is mostly likely to be developed, she believes Lincoln would be better served with a mix instead of the cookie cutter units and a golf course. Traffic is an issue. Fletcher is a 45 mph road and it cannot withstand 1,000 or more cars. This is not conducive to a local street. 1<sup>st</sup> & Fletcher is a concern because when you try to come out to the highway, you must take a right turn on a two-lane and continue into Fallbrook or go into the left lane. Maybe one car every 30 seconds will turn, so there will be some serious backup. There is already a backup of traffic at 14<sup>th</sup> and Superior. Entrances and exits are not yet known. Water is a concern. She understands that this project is trying to be streamlined and there will be administrative amendments. The administrative process should not be used because it prevents public comment.

**3. Tim Aschoff**, 132 S. 13<sup>th</sup> Street, appeared on behalf of **Robert and Karen Duncan**, in opposition. The Duncans live south of this property on 7<sup>th</sup> Street and are concerned about the density of the project and the compliance with the Comprehensive Plan, which designates this property as urban residential and partially low density. The guiding principles of the Comprehensive Plan for urban residential provide that in the future in new neighborhoods we want to strongly encourage a mix of development. There is low density residential developed to the north and to the east. To the immediate west there is high density in apartments. To the south it is primarily low density residential. His clients are not opposed to development, but building principles should provide for mix of development. The second concern is traffic flow. The developer is required to pave 7<sup>th</sup> Street from their entrance to the north up to Fletcher. Right now there is nothing that will prevent the traffic from heading south from their entrance. We have been told that there is a plan in the future that the 7<sup>th</sup> Street bridge would come down as the interstate is widened. If the 7<sup>th</sup> Street bridge is going to be closed after this

annexation, his clients would request that the city close 7<sup>th</sup> Street and prevent people from getting accustomed to using that route, or require the developer to pave that route. The exact entrances and exits are not known and would be done administratively, which is not acceptable.

Another concern is the water. The Duncans have a private well on their property. They do irrigate a large portion of their property with their private well system and discovered three years ago the unique nature of the water in that area. By using their private well irrigating 10 acres, they discovered that they were killing off the vegetation because the water contains a high level of salt. They have had to restrict pumping of the water.

Aschoff stated that he has also been contacted by Art Knox and other neighbors who are concerned about the traffic and water issue. They are requesting that there be a study done to determine how the 7<sup>th</sup> Street project time line will affect their property.

Aschoff believes that the public should have an opportunity to comment on the water study.

**4. Tim Mettenbrink**, Vice President of **Nebco Inc.**, and owner and developer of Fallbrook immediately adjacent to the north and west, testified in opposition. He clarified that he is speaking as the developer of Fallbrook and not as a representative of the residents or homeowners association. Fallbrook shares the front door of its development with this proposal. He complimented the Lindsey Company, and noted that Fallbrook has a high degree of support in terms of the residential development with the recreational component attached, which would be great for the Fallbrook residents and neighbors. The Fallbrook developer is, however, concerned about the commercial component. The staff report talks about restaurant, grocery store, auto repair, convenience store, etc., and frankly, that is not the front that has been envisioned for Fallbrook. The objections to the commercial use are: 1) visual impact – signage, lighting, etc.; 2) traffic; 3) the yet unknown use which is left to the administrative amendment process; and 4) deviation from the Comprehensive Plan. Fallbrook had conversations with the Umberger family (the owners of the property being developed) over the last year and Fallbrook considered acquiring this property. However, in reading the Comprehensive Plan and the traffic study and through discussions with staff, Fallbrook heard that this property is designated as residential and that no commercial is included. The Fallbrook developers have talked with Mr. Lindsey and they are hopeful to privately come to some kind of agreement related to the commercial component. Fallbrook objects strongly to the commercial component because the uses are not defined or designated at this point in time. Fallbrook respectfully requests that serious consideration be given to removing the commercial component.

Pearson inquired whether there is commercial in the Fallbrook development. Mettenbrink acknowledged that Fallbrook has over ½ million square feet approved for office/commercial. Fallbrook has a plan that shows areas in general and there have been square footages applied to areas in general. Currently, there is about 120,000 sq. ft. of retail component in the village center.

Marvin asked Mettenbrink about the intersection of Fletcher and Hwy 34. Mettenbrink agreed that Fallbrook would like to see a better solution than the one that is there. It is a nasty intersection. It somewhat works for the Fallbrook residents, but if we are building a community that is the heart and soul of northwest Lincoln, we need people to be able to get to us. A development like this would support the commercial component within Fallbrook and Fallbrook would be willing to participate in a solution.

### Staff questions

Dennis Bartels of Public Works explained that 1<sup>st</sup> and Fletcher was reconstructed because of Fallbrook and how the traffic study showed that traffic generation. Before Fallbrook, 1<sup>st</sup> Street intersected Fletcher at a point approx. 300 feet from Hwy 34. From a traffic perspective, both streets could not function as arterial streets. The city had to make a decision as to which street to emphasize. 1<sup>st</sup> and Fletcher was redesigned and paid for by Fallbrook in the configuration that it is today. At this point in time, there is very little that can be done with this intersection to provide full access. U-turns are being made at an intersection which is not designed for U-turns. Fallbrook Boulevard and Pennsylvania to the east are designed to accommodate U-turns but they are 1/4 mile north of the Highway 34/1<sup>st</sup> Street intersection.

With regard to the future of 7<sup>th</sup> Street, Bartels advised that the present plans by NDOR for I-80 removes that bridge in approximately 2007.

Marvin inquired whether there is an access point onto this site from 7<sup>th</sup> Street to accommodate an LES substation. Bartels stated that there is an access driveway into the apartment complex from 7<sup>th</sup> Street—two are anticipated off of 7<sup>th</sup> Street. 7<sup>th</sup> Street north to Fletcher was required to be paved with a standard urban city street. But as written, there are no plans to require 7<sup>th</sup> between Fletcher and Superior to be paved. It is a gravel road. Public Works is not requiring the pavement beyond this development's southern driveway because of the anticipation of the 7<sup>th</sup> Street bridge coming out.

Based on the number of units, Marvin asked Bartels whether it is his opinion that this development has to have access points from 7<sup>th</sup> Street. Could it be required that the only access point be on Fletcher? Bartels stated that for site circulation, the city would encourage the driveway to 7<sup>th</sup> Street because of block lengths and the number of units. Horner observed that elimination of that access would be in violation of the design standards, and Police and Fire would object because they need two accesses for emergency purposes.

Bartels further stated that at this point in time, Public Works has only reviewed a sketch plan that showed driveways. There is not enough information to relate it to the driveways at this point. Public Works will need information on driveway locations on this site in relation to future street grades for 7<sup>th</sup> Street. He will also ask for locations of driveways that exist on the north



side of Fletcher before this proposal goes to the City Council to try to accommodate alignment or proper separation of driveways along Fletcher. At this point in time, he has not looked at it.

Pearson asked what the 16" water main that will be extended by this development will serve. Bartels advised it was his expectation that the water main shown on the plan was to provide the domestic water service and fire protection. He did not review the wells that have been referenced, but they would be used for irrigation purposes. The city would be willing to sell them water for irrigation purposes as well.

Carroll inquired about the administrative process for the commercial component. Horner advised that this approval would approve a floor area of commercial limited to those uses stated in the staff report. The applicant indicates that they will meet all design standards. The administrative amendment review would be the specific locations on the site, provided they meet all design standards and zoning and subdivision regulations. That would include pedestrian sidewalks. The Comprehensive Plan calls for pedestrian activity and staff determined that to be a site related design that would be required at the time of administrative amendment.

Marvin's main concern is that 7<sup>th</sup> Street is going to go away so the access to get downtown is to take Fletcher and make a turn on Hwy 34, which is presently difficult to do. He believes this is going to be difficult for the number of trips generated by 600 units. Bartels agreed that it is potentially a problem. The other route to downtown would be 14<sup>th</sup> Street. Fletcher is paved between 1<sup>st</sup> and 14<sup>th</sup>. 7<sup>th</sup> Street is an open street; Pennsylvania is through between 1<sup>st</sup> and 7<sup>th</sup>, although gravel at this point in time. Marvin does not believe we want to encourage traffic to go down a gravel road. Bartels agreed that it would cause dust and maintenance problems.

Horner pointed out that the trip generation would show that trips are lower for multi-family rather than single family. Marvin believes that 4,000 to 5,000 is still a lot of trip generation from the apartment complex. Horner suggested that the trip generation would be 40% higher with single family. Marvin stated that he was not talking about single family, but the number of trips that are going to go from Fletcher to Hwy 34.

Pearson does not understand why we wouldn't redesign that intersection and ask the developer of The Links to help pay for it. Bartels stated that there is not physically enough room to redesign that intersection. Pearson suggested taking part of the potential commercial space to redesign the intersection. Bartels explained that 1<sup>st</sup> Street is the long term arterial to continue out into the County, so the intersection is designed to make 1<sup>st</sup> Street the prominent carrier. The traffic numbers of Fallbrook showed that it potentially could generate enough for dual left turn lanes at Hwy 34 and 1<sup>st</sup> Street, and the stacking required extends past this intersection at Fletcher which makes it an unsafe design. That is the reason they put the median in front of it. He does not see a good way of redesigning the intersection unless right-of-way is acquired from the acreage owners further north.

Carlson understands that the per unit traffic count is higher for single family, but he suggested that overall, the trips would be lower because there would be fewer numbers of individual houses. Horner clarified that the density is set based on the zoning. Most single family subdivisions do not develop to their full potential, but at five dwelling units per acre, single family is still probably going to be a little higher, if not equal, in trip generation. Bartels observed that if there were three to four dwelling units per acre in single family and about six to seven dwelling units per acre in this proposal, the traffic generation would be very similar. Carlson believes commercial would generate more trips than the residential. Bartels agreed, depending on the use.

Carlson asked staff to discuss the commercial in reference to the Comprehensive Plan. Horner stated that the Land Use Plan shows the corner as low density residential; however, there is a substantial amount of text in the Comprehensive Plan which encourages areas of neighborhood commercial within walking distance. Staff believes that if this small amount of commercial is provided in this neighborhood of 600+ dwelling units, many of the people who live in this neighborhood would walk to the services which would be provided in the commercial. The Comprehensive Plan does encourage small amounts of commercial in large neighborhoods and it is anticipated that this would reduce the overall trips to obtain those same services. Carlson observed that if this were Highway 2 instead of Highway 34, a spot of commercial would generate a lot more in terms of traffic trips.

#### Response by the Applicant

From a traffic standpoint, Lindsey suggested that approximately 375-400 single family houses would equate to 600 apartments. Lindsey also reiterated that his company would definitely participate in a properly designed intersection at 1<sup>st</sup> and Fletcher because it is important to this development.

As far as the water issue is concerned, Lindsey stated that they will pump the water into the holding lake and then pump it out of the lake for irrigating. The well will empty into the lake. If there is saline solution in the water, it will be diluted substantially in that lake. There are other things that can be done about the salty water. It is anticipated that the lake will only be used in July, August and early September. Lindsey stated that The Lindsey Company wants to be a good neighbor and does not want to drain someone's water supply.

Owen Goodenkauf, hydrologist with HWS Consulting Group, stated that the water information will be packaged and forwarded to the NRD. Before development, there will need to be some site specific testing done. They will check the water levels while test pumping and will look real hard at the quality. He understands the concerns and clearly understands that Lancaster County is problematic for water supply, but he believes there is a decent chance of putting together a water system to provide this seasonal supply.

Taylor inquired as to when the testing would be done. Goodenkauf stated that they would be prepared to move along as quickly as necessary.

Pearson confirmed that the 16" water main extended to the development is for domestic use for the apartments and the clubhouse, commercial, etc. The only thing that a well would be used for is the golf course and the lake. How much water does a 9-hole golf course use? Goodenkauf estimated the total pumpage to be 100 to 200 gpm, which would not have to be from just one well. It is entirely possible to do several 30 gpm wells. It is not the same thing as an irrigation well.

Back to the traffic and 1<sup>st</sup> & Fletcher intersection issue, Lindsey stated that when The Lindsey Company sees a location at two major intersections and recognizing that traffic is always an issue, they would prefer to have a generally positive location with visibility over perfect ingress and egress. They have selected this site with full knowledge of the traffic issues at that intersection. The convenience of the location would off-set the inconvenience of the 1<sup>st</sup> and Fletcher intersection.

Marvin inquired whether the applicant would agree to delete the word "likely" from Condition #4.4 added by the staff today. Lindsey stated that he would agree, and they would act upon the water information and testing immediately before any permitting. Goodenkauf added that in assessing the issue of the salt, HWS would not be just looking at how it impacted the golf course, but how it would impact the residential areas as well.

Lindsey did not know the size of the pond. The golf course is 53 acres, with 40 acres designated to the apartments and commercial. Over half of the property will be green space, and that is something you would not get in a subdivision. Fugitt believes the lake would be 10+ surface acres. Lindsey added that there will be a lot of acre-feet in that lake. It will be their supply of water in conjunction with the well. All of the water will be pumped into the lake. If there is not a good supply of water, they will have to use city water.

In defense of the commercial area, Lindsay suggested that it would not be desirable to have apartments on top of that problem intersection. Lindsey Company is not a commercial builder, but he does not believe they could move apartments into that area. The commercial is a very small part of the overall PUD.

**ANNEXATION NO. 05001**

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Carroll moved approval, with conditions, seconded by Marvin and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent. This is a recommendation to the City Council.

**CHANGE OF ZONE NO. 05002**

**ACTION BY PLANNING COMMISSION:**

February 16, 2005

Taylor moved to approve the staff recommendation of conditional approval, with the additions and revisions submitted today by staff, seconded by Pearson.

Marvin moved to amend new Condition #4.4 to strike the word “likely”, seconded by Sunderman and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting ‘yes’; Bills-Strand and Larson absent.

Marvin commented that he is still disturbed about the lack of sufficient left turning movement at 1<sup>st</sup> & Fletcher & Hwy 34. He believes that pushes a lot of traffic over to 7<sup>th</sup> Street, which is a gravel road and it is years away from being improved.

Carroll observed that whether it is residential or multi-family, there is still going to be a problem with 1<sup>st</sup> & Fletcher. Lindsey and Nebco have agreed to be involved as far as redesign. He believes there is something that can be improved. He thinks this is a great development for this area, with a very good design of the buildings, property and everything else. The applicant is well-respected so he believes it is a good plus for Lincoln.

Pearson also heard Lindsey and Fallbrook speak to sharing or at least investing in the intersection. Given that, she would think that there would be a resolution that could happen sooner possibly rather than later, and she is trusting that will be taken care of.

Taylor stated that he is in support and thinks it will be an excellent development.

Carlson believes this is a parcel that will be in the city and he has no problems with the applicant, but he is not satisfied with some of the concerns that have been raised today. He is concerned about the water, and traffic continues to be a concern for which we do not have a resolution. He does not hear a solution by Public Works or Fallbrook or Lindsey. He would like to see more answers before proceeding. The commercial situation is troubling because we have other development out there that has made decisions based on the Comprehensive Plan, and he thinks this proposal interferes with that. At this point there are too many questions.

Motion for conditional approval, as revised, with amendment, carried 5-2: Pearson, Carroll, Taylor, Krieser and Sunderman voting ‘yes’; Marvin and Carlson voting ‘no’; Bills-Strand and Larson absent. This is a recommendation to the City Council.

**COUNTY SPECIAL PERMIT NO. 04055,**  
**FOUR STONES COMMUNITY UNIT PLAN,**  
**and**  
**COUNTY PRELIMINARY PLAT NO. 04025,**  
**FOUR STONES,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT S.W. 29<sup>TH</sup> STREET AND STAGECOACH ROAD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested a deferral until March 30, 2005. Carroll moved to defer, with continued hearing and action on Wednesday, March 30, 2005, seconded by Taylor and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent.

**USE PERMIT NO. 148, KING CREST,**  
**ON PROPERTY GENERALLY LOCATED**  
**AT NO. 27<sup>TH</sup> STREET AND FOLKWAYS BLVD.**

**CONT'D PUBLIC HEARING BEFORE PLANNING COMMISSION:** February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Staff recommendation: Conditional approval.

Ex Parte Communications: None.

The Clerk announced that the applicant has requested a two-week deferral until March 2, 2005.

Taylor moved to defer two weeks, with continued hearing and action on Wednesday, March 2, 2005, seconded by Carroll and carried 7-0: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson voting 'yes'; Bills-Strand and Larson absent.

**MISCELLANEOUS NO. 05002**  
**TO AMEND RULE 17 OF THE**  
**PLANNING COMMISSION RULES AND PROCEDURES.**

February 16, 2005

Members present: Marvin, Pearson, Carroll, Taylor, Krieser, Sunderman and Carlson; Bills-Strand and Larson absent.

Marvin Krout, Director of Planning, stated that the last month, the City-County Common reviewed a recommendation for change in the Planning Commission bylaws submitted by Commissioner Bernie Heier. He wanted to clarify the Planning Commission bylaws to make sure that there was going to be full disclosure and discussion of ex parte communications that occur before the hearings, and that those communications would include not only applicants and opponents, but any communication with anyone that would have a potential bearing on how the Planning Commissioners decide on the case. The proposal also suggested that the Planning Commission have a roll call vote on ex parte communications.

This proposal is the result of the discussion that the Planning Commission had on January 19, 2005. Alternative A is what the Planning Commission requested be brought forward for consideration. Alternative A makes one change to the wording of #2 in Rule 17:

“If there are ex parte contacts with ~~the applicant or opponent~~ anyone that results in new information....”.

Krout suggested that this change satisfies some of the concerns raised by Commissioner Heier. There did not seem to be an interest by the Planning Commissioners in doing a roll call vote. Krout is expected to report back to the City-County Common in March. Krout advised that the Planning Commission is responsible for its own bylaws and the City Council and County Board cannot impose any requirements.

Krout explained that Alternative B represents additional amendments the staff would suggest be considered by the Planning Commission in making any changes to Rule 17. Upon further review, it appeared that there are other changes that could be made to clarify some of the other language in Rule 17.

Marvin made a motion to approve Alternative A, which deletes “applicant or opponent” and inserts “anyone”, seconded by Carlson.

Carroll observed that this change is simple and it is not changing a lot so he agrees with Alternative A.

Marvin believes the issue arose because some individuals suggested that the Planning Commissioners were discussing things with staff and that that information should be disclosed. Krout clarified that the intent would be that if you (a Planning Commissioner)

believed there was information that someone provided that may have some bearing on the decision you make, it is important to share that information with the remainder of the Commission members.

Taylor stated that he will vote note.

Motion approving Alternative A failed 1-6: Carlson voting 'yes'; Marvin, Pearson, Carroll, Taylor, Krieser and Sunderman voting 'no'; Bills-Strand and Larson absent.

There was no other motion, thus Rule 17 of the Planning Commission Rules and Procedures remains as is with no change.

Carlson suggested that Krout thank the Common for giving the Commissioners the opportunity to have this discussion.

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The briefing scheduled at the end of today's meeting on proposed amendments to the zoning ordinance and design standards for major streetscapes was deferred until 12:15 p.m. on Wednesday, March 2, 2005, in Room 113.

There being no further business, the meeting was adjourned at 4:20 p.m.

Please note: These minutes will not be formally approved until the next regular meeting of the Planning Commission on March 2, 2005.